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MOTION PICTURE AGREEMENT

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MOTION PICTURE AGREEMENT

Agreement made on date of execution between the United States of America, acting through the Librarian of Congress (herein called the Librarian), and

Name _____

Address _____ Phone (_____)
(herein called the Depositor).

Whereas:

(a) The undersigned Depositor expects to deposit in the Copyright Office, from time to time, copies of various published motion pictures in satisfaction of the mandatory deposit requirements of section 407 of title 17 of the United States Code (herein called "section 407") or the registration provisions of section 408 of said title (herein referred to as "section 408"), or both; and

(b) Under the provisions of section 704 of said title, such copies become the property of the United States Government upon their deposit under either section 407 or 408, and the Librarian is authorized, under said section 704, to select any such copies of published motion pictures for the collections of the Library of Congress (herein called "the Library") or for exchange or transfer to any other library; and

(c) Although for purposes of mandatory deposit or registration, sections 407 and 408 generally require the deposit of two copies of a published work, both sections authorize the Register of Copyrights to issue regulations allowing the deposit of only one copy where two would normally be required, and the Register has issued such regulations with respect to published motion pictures (title 37 of the Code of Federal Regulations); and

(d) Because of the special nature of motion pictures, their varying forms and modes of reproduction, distribution and exhibition, it is to the advantage of both the Depositor and the Library to establish a flexible system for the deposit and retention, or return and recall, of deposit copies of motion pictures. The aims of the system are to facilitate the satisfaction of copyright deposit and registration requirements without imposing unnecessary procedural or financial burdens on the Depositor, or the Library, while assuring to the Library copies of those works it wishes to acquire for its collections in the form and physical condition most suitable for preservation:

Now Therefore, in consideration of the mutual promises set forth below, the parties agree as follows:

1. The Depositor shall henceforth, as required by section 407 and in accordance with the provisions of section 408 (if applicable) and with all relevant Copyright Office Regulations including those concerning the "best edition" of motion pictures, deposit in the Copyright Office one complete copy of the "best edition" of every motion picture published with a copyright notice in the United States of which it is either (a) the owner of copyright or (b) the owner of the exclusive right of publication (including the exclusive right of distribution in the United States). Nothing herein shall require the deposit of more than one copy of a motion picture of archival quality as defined in paragraph 4.

2. The Librarian shall, if requested to do so in writing at the time of deposit by the Depositor (or by an agent designated by the Depositor), promptly return the copy to the Depositor (or to an agent designated by the Depositor in writing, in the application for copyright registration or otherwise), subject to demand by the Librarian as specified in paragraph 5.

3. In every case where the Librarian has returned a copy under paragraph 2, the Depositor shall, during the period of two years after the date of deposit for a particular motion picture, or until one copy is delivered to the Library in compliance with the written demand of the Librarian under paragraph 5, maintain in its custody or control one copy of archival quality, as defined in paragraph 4, of such motion picture, or a negative or master print from which such a copy of archival quality can be reproduced. Failure to maintain one copy of archival quality or said negative or master print shall constitute grounds for action by the Librarian under paragraphs 6, 7, and 10.

4. The "copy of archival quality" referred to in paragraphs 1 and 3 shall in all cases be:

(a) A complete copy identical in content and sequence with the copy of the "best edition" deposited in accordance with paragraph 1; and

(b) Either: (i) a copy that has never been used for performance and that fully meets all of the technical guidelines set out in Appendix A (which is hereby incorporated into this Agreement and made a part hereof); or (ii) a copy that has been used for performance with sufficient care that it fully meets all of such technical guidelines.

While as a general rule, the "copy of archival quality" shall be the same in size, format, and process of reproduction as the copy previously deposited in accordance with paragraph 1, the Librarian shall have discretion to accept as the "copy of archival quality" a copy different in size, format, or process of reproduction from that deposited.

5. Upon written demand made by the Librarian, or one to whom he or she has delegated this authority, the Depositor shall deliver to the Library, at the Depositor's expense, one (1) copy of archival quality of the motion picture, as defined in paragraph 4. Delivery by the Depositor shall be completed within six (6) months after the date the demand is made by the Librarian, or within such additional period of time as the Librarian may stipulate in writing. Said demand shall be made by the Librarian:

(a) When the Depositor, at any time within the two-year period provided by paragraph 3, submits a written request to the Librarian asking that the Library promptly exercise its right to demand delivery of one copy of archival quality of the motion picture; in such case, the Librarian shall make said demand not later than ninety (90) days after the receipt of said request; or

(b) Within the two-year period provided by paragraph 3, when no request by the Depositor has been received by the Library.

6. It shall be within the sole discretion of the Librarian of Congress to determine whether or not a particular copy is a "copy of archival quality" within the meaning of paragraph 4. If, upon delivery of a copy in response to a demand under paragraph 5, the Librarian determines that it is not a "copy of archival quality" as defined by paragraph 4, he or she shall, within ninety (90) days of said delivery, make an additional written demand for the delivery of one copy of archival quality in substitution for the delivered copy, and the Depositor shall have ninety (90) days, or such additional period of time as the Librarian may stipulate in writing, in which to deliver said substituted copy. If a substituted copy is received and accepted, the copy delivered earlier will be returned to the Depositor.

7. If the Depositor fails to deliver the copy of archival quality of a motion picture within the periods provided by or stipulated under paragraphs 5 and 6, the Depositor shall be considered to have breached this Agreement, and the Librarian shall have the right to acquire one copy of archival quality, or the right to reproduce one copy of archival quality, and the Depositor shall be liable to pay into a special fund for use of the Library of Congress an amount representing the full and complete costs to, or incurred on behalf of, the Library for such acquisition or reproduction. Such breach shall constitute good cause, under paragraph 10, for the immediate cancellation of this Agreement by the Librarian.

8. In cases where the Librarian has made no demand within the periods of time provided by paragraphs 5 or 6, the Depositor shall cease to have any obligation under this Agreement with respect to the particular motion picture at the end of such periods.

9. As part of his or her obligations under this Agreement, and notwithstanding any provisions of title 17 of the United States Code that would otherwise authorize such use, the Librarian shall not cause, authorize, or permit, without the prior written consent of the copyright owner:

(a) Any public performance of any copyrighted motion picture covered by this Agreement, or any private performance of such motion pictures other than for research or study purposes, or any use or performance outside the premises of the Library, with the use of prints or fixations of any such motion pictures; or

(b) Any exchange, transfer, sale, loan, or gift of a print or fixation of all or any part of a copyrighted motion picture covered by this Agreement, to another library or any other recipient; or

(c) Reproduction of all or any substantial part of a copyrighted motion picture covered by this Agreement, except that (i) to avoid the danger of damaging the copy of archival quality in its collections, the Librarian may make a single reproduction solely for purposes of research or study within the premises of the Library; and (ii) in any case the Librarian may make a copy of such a motion picture if any copy in the collections of the Library, including any copy made under paragraph 9(c)(i), or earlier made under this paragraph 9(c)(ii), or deposited under paragraph 1, is, in the judgment of the Librarian, damaged or deteriorating.

10. Either party may terminate this Agreement for good cause upon thirty (30) days written notice to the other party. Such good cause shall include, but shall not be limited to single or repeated instances of breach of this Agreement. Such termination shall apply only to motion pictures of which copies are thereafter deposited by the Depositor, and shall not affect the rights of the Librarian or the obligations of either party with respect to any motion pictures of which copies have been returned under paragraph 2, or have been deposited or reproduced pursuant to paragraphs 5, 6, or 7. In the event this Agreement has been terminated by the Librarian it shall not be subject to reinstatement, nor shall Depositor or any successor in interest of the Depositor be entitled to any similar or subsequent agreement with the Library, unless at the sole discretion of the Librarian it would be in the best interests of the Library to reinstate the Agreement or to enter into a new Agreement. Reinstatement may be on such additional conditions as the Librarian may determine, including but not limited to reasonable provisions for return of the previously requested copy. In no case shall the failure of the Librarian to exercise or enforce his or her rights, including the right of termination, under this Agreement with respect to any particular breach or breaches or any particular motion picture or motion pictures be deemed a waiver of such rights with respect to other breaches or motion pictures.

11. The Depositor may assign this Agreement insofar as it applies to copies of motion pictures deposited under sections 407 and 408 after written notice of the assignment to the Librarian. Such notice shall be accompanied by a copy or duplicate original of the assignment.

12. No assignment of this Agreement shall, without the written consent of the other party, relieve either party of the rights and obligations previously assumed and subsisting with respect to copies of motion pictures deposited before receipt by the Librarian of the written notice specified by paragraph 11. However, all rights and obligations under this Agreement whether previously assumed and subsisting or arising in the future, shall bind and inure to the benefit of the executors, administrators, legal representatives, heirs, or distributees of the Depositor in cases where title to such rights and obligations has been transferred by operation of law.

13. All notices required hereunder shall be written and shall be directed to the respective parties at the addresses set forth above except as the same may from time to time be changed in writing. In the event that the undersigned Depositor changes the address of its place of business, or the address to which notices under this Agreement are to be delivered, it shall promptly notify the Chief, Deposits and Acquisitions Division, Copyright Office, Library of Congress, of such change in address.

14. This Agreement applies only to motion pictures published in the United States of America, and nothing contained herein is intended to, or shall be interpreted to, alter or supersede any legal requirements affecting the deposit or registration of unpublished motion pictures under sections 407 or 408, or any regulations issued under said sections.

15. Regardless of the place of its physical execution, this Agreement shall be interpreted according to the laws and statutes of the United States of America, and of the District of Columbia.

16. In the case of any motion picture having two or more copyright owners and/or owners of the exclusive right of publication, including the exclusive right of distribution in the United States, this Agreement shall be binding if any one of such owners is a signatory to this or another copy of the present Agreement, and such signatory and/or signatories shall be responsible, jointly or severally, with respect to the delivery of a copy of archival quality of that motion picture.

17. This Agreement constitutes the complete understanding of the parties. No modification or waiver of any provision hereof shall be valid unless in writing and signed by both parties.

In Witness Whereof

the parties have duly executed this agreement.

DEPOSITOR: (Corporation)

_____ _____
Printed Name of Corporation — Date

by_____ _____
Officer of Corporation (Signature) — Office Held

_____
Officer of Corporation (Printed Name)

OR DEPOSITOR: (Individual)

_____ _____
Signature of Individual Owner — Date

_____
Printed Name of Individual Owner

OR Attorney-in-Fact on behalf of Depositor*

by_____ _____
Attorney-in-Fact for Depositor (Signature) — Date

_____
Attorney-in-Fact for Depositor (Printed)

_____
Address of Attorney-in-Fact for Depositor

THE UNITED STATES OF AMERICA:

by_____ _____
Librarian of Congress — Date Executed

*Any person signing this Agreement as Attorney-in-Fact for the Depositor must execute the attached Bond, and, unless such Bond is validly executed, such person's signature of this Agreement shall be invalid and this Agreement shall not be binding upon the Librarian of Congress.

MOTION PICTURE AGREEMENT: APPENDIX A

"COPY OF ARCHIVAL QUALITY": TECHNICAL GUIDELINES

To be considered a "copy of archival quality" within the meaning of paragraph 4 of this Agreement, a copy shall conform to all of the technical guidelines set out in this Appendix. Without in any way prejudicing or limiting his or her sole discretion under paragraph 6 of this Agreement to determine whether or not a particular copy is a "copy of archival quality," the Librarian agrees that, in making such determination, the guidelines set out in this Appendix will be taken into account to the extent applicable.

A. **Physical Condition.** All portions of the copy that reproduce the motion picture (as distinguished from portions, such as "leaders" and their equivalents, which are physically attached to the beginning or end of the motion picture but do not reproduce any part of its contents) must be:

1. *Clean:* free from dirt, marks, spots, fungus, or other smudges, blotches, blemishes, or distortions;

2. *Undamaged:* free from burns, blisters, tears, cuts, scratches, breaks, erasures, or other physical damage.

   a. In the case of motion picture film, the copy must be free from:

      (i) any heavy scratch, including any scratch penetrating through the emulsion into the base or through the emulsion layer of color film. Some very light surface ("rain") scratches may be accepted if they do not persist for more than 50 frames and appear no more than once in a single reel.

      (ii) any physical damage that would interfere with the performance of the film, including embossing or cinch marks and any fractured perforations (torn sprockets); however, minor wear to perforations may be accepted;

      (iii) any damage causing audible defects or distortions in the soundtrack.

   b. In the case of video tape and other forms of reproductions of motion pictures, the copies must be free from:

      (i) any damage that interferes with performance from the tape or other reproduction, including physical damage resulting from earlier mechanical difficulties such as cassette jamming, breaks, tangles, or tape overflow; and

      (ii) Any erasures, damage causing visual or audible defects or distortions or any material remaining from incomplete erasures of previously recorded works.

3. *Unspliced:* free from splices in any part of the copy reproducing the motion picture, regardless of whether the splice involves the addition or deletion of material or is intended to repair a break or cut.

4. *Undeteriorated:* free from any visual or aural deterioration resulting from aging or exposure to climatic, atmospheric, or other chemical or physical conditions, including heat, cold, humidity, electromagnetic fields, or radiation.

   a. In the case of motion picture film, the copy shall be free from curl, buckle, edge wave, twist and excessive brittleness.

   b. In the case of video tape and other forms of reproductions of motion pictures, the copy shall be free from excessive brittleness or stretching, from any visible flaking of oxide from the tape base or other medium, and from other visible signs of physical deterioration or excessive wear.

B. **Physical Appurtenances of Deposit Copy.**

1. *Physical Housing of Copy*

   a. *Motion Picture Film*

      (i) In the case of film reproduced for reel-to-reel projec-

tion, the deposit copy shall preferably consist of rolls of uniform size mounted on cores (the last roll may be shorter). Alternatively, the deposit copies shall consist of reels of uniform size (the last reel may be shorter). The length of the roll or reel will depend on the size of the film except that 35 mm feature films must be on 2,000-foot rolls or reels.

(ii) In the case of film reproduced for cassette, cartridge, or similar projection, the film drive mechanism shall be fully operable and free from any mechanical defects.

b. *Video Tape*

(i) In the case of video tape reproduced for reel-to-reel performance, the deposit copy shall consist of reels of uniform size and length. The length of the reels will depend on both the size of the tape and its running time (the last reel may be shorter).

(ii) In the case of video tape reproduced for cassette, cartridge, or similar performance, the tape drive mechanism shall be fully operable and free from any mechanical defects.

2. *"Leader" or Equivalent*

a. *Motion Picture Film:* The copy shall have an "Academy leader" or its equivalent at both the head and the tail of the film.

b. *Video Tape:* The copy, whether housed in reels, cassettes, or cartridges, shall have a leader segment both preceding the beginning and following the end of the motion picture recording.

3. *Physical Preparation:* In the case of motion picture film, the copy shall have been waxed or otherwise treated for projection throughout the length of each reel.

C. **Visual and Aural Quality of Copy**

1. *Visual Quality*

a. In the case of motion picture film, the copy must meet industry standards of clarity, density, contrast, and (where applicable) color balance that are fully acceptable for theatrical screening (or, where the film was made for broadcast, that are fully acceptable for television screening).

b. In the case of video tape and other forms of reproduction of motion pictures, the copy should be equivalent to an evaluated first generation copy from an edited master tape and must reproduce a flawless and consistent electronic signal that meets industry standards for television screening.

2. *Aural Quality*

a. In the case of motion picture film, the soundtrack must be perfectly synchronized and free from any audible defects.

b. In the case of video tape and other forms of reproduction of motion pictures, the sound channels or other portions must reproduce a flawless and consistent electronic signal without any audible defects.

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